

REMARKS

Claims 6, 7 and 9 are pending in the present Application. Claim 6 has been amended, leaving claims 6, 7 and 9 for consideration upon entry of the present amendment.

Support for the amendments to the claims can be found in the claims as filed.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Abstract

The Examiner's comments regarding the abstract are not understood. This application is a 35 U.S.C. § 371 of International Application No. PCT/GB03/05659 filed on December 22, 2003. PCT publication WO 04/056843 has as an abstract:

“The invention provides antibiotic 10-desmethyl macrolides.”

In the December 17, 2008 response, Applicants amended the abstract using “track-changes.” Thus, the abstract as filed was amended to proper US form in the previous amendment. If the Examiner maintains this objection, he is asked to clarify the objection to the abstract.

Reconsideration and withdrawal of the objection to the abstract are requested.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 6, 7 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular:

- the term “comprising (claim 6, line1) renders the claims indefinite since it leaves the structural formula III open-ended, i.e. the metes and bounds of the claimed invention cannot be determined;
- The terminology “(8) cyclic substituents (k) aryl, and optionally substituted aryl (ii) heteroaryl, and optionally substituted heteroaryl...(claim 6) renders the claims indefinite since it is not from the claim if the terminology “cyclic substituents” was meant to be “cyclic substituents selected from the group consisting of (i) aryl, and optionally substituted aryl...”; and

- There is no antecedent basis in the claimed structure III for the terminology “subject to the proviso that when the structure is IV, Z and M are part of a five- or six-membered ring...” (claim 6).

In response, claim 6, line 1, has been amended to “consisting of” as suggested by the Examiner. Also (8) has been amended to “(8) cyclic substituents selected from the group consisting of.” The phrase ““subject to the proviso that when the structure is IV, Z and M are part of a five- or six-membered ring...” has been deleted, thus obviating the rejection.

Reconsideration and withdrawal of this rejection are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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